

# In the United States Court of Federal Claims

## OFFICE OF SPECIAL MASTERS

No. 13-72

Filed: March 10, 2015

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APRIL POLITE, on behalf of her child,  
LKT,

Petitioner,

v.

SECRETARY OF HEALTH  
AND HUMAN SERVICES,

Respondent.

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**UNPUBLISHED**

Special Master Hamilton-Fieldman

Attorneys' Fees and Costs; Reasonable Amount  
Requested to which Respondent Does Not  
Object.

Danielle A. Strait, Maglio Christopher and Toale, PA, Washington, DC, for Petitioner.  
Lindsay Corliss, United States Department of Justice, Washington, DC, for Respondent.

### DECISION<sup>1</sup>

On January 29, 2013, April Polite ("Petitioner") filed a petition on behalf of her minor child, LKT, pursuant to the National Vaccine Injury Compensation Program.<sup>2</sup> 42 U.S.C. §§ 300aa-1 to -34 (2006). Petitioner alleged that her child suffered from a cerebrovascular infarct and that this injury had been caused by the Prevnar, Rotateq, Pentacel, and Hepatitis B vaccines LKT received on May 24, 2010. Petition ("Pet") at 1. On January 8, 2015, the undersigned issued a decision dismissing the case for failure to prosecute and alternatively, for insufficient proof of causation.

On March 10, 2015, Petitioner filed a Stipulation of Facts Concerning Final Attorneys' Fees and Costs. Pursuant to their Stipulation, the parties have agreed to an award of \$26,190.00 in attorneys' fees and costs. In accordance with General Order Number 9, Petitioner represents that she did not personally incur any expenses in pursuit of this claim.

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<sup>1</sup> The undersigned intends to post this unpublished decision on the United States Court of Federal Claims' website, in accordance with the E-Government Act of 2002, Pub. L. No. 107 347, § 205, 116 Stat. 2899, 2913 (codified as amended at 44 U.S.C. § 3501 note (2006)). As provided by Vaccine Rule 18(b), each party has 14 days within which to file a motion for redaction "of any information furnished by that party (1) that is trade secret or commercial or financial information and is privileged or confidential, or (2) that are medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of privacy." In the absence of such motion, the entire decision will be available to the public. *Id.*

<sup>2</sup> The National Vaccine Injury Compensation Program is set forth in Part 2 of the National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755, codified as amended, 42 U.S.C. §§ 300aa-1 to -34 (2006) (Vaccine Act or the Act). All citations in this decision to individual sections of the Vaccine Act are to 42 U.S.C.A. § 300aa.

The undersigned finds that this petition was brought in good faith and that there existed a reasonable basis for the claim. Therefore, an award for fees and costs is appropriate, pursuant to 42 U.S.C. § 300aa-15(b) and (e)(1). Further, the proposed amount seems reasonable and appropriate. **Accordingly, the undersigned hereby awards the amount of \$26,190.00, in the form of a check made payable jointly to Petitioner and Petitioner's counsel, Danielle A. Strait, of Maglio Christopher & Toale, PA, 1605 Main Street, Suite 710, Sarasota, Florida 34236.**

In the absence of a motion for review filed pursuant to RCFC Appendix B, the clerk of the court **SHALL ENTER JUDGMENT** in accordance with the terms of the parties' stipulation.<sup>3</sup>

**IT IS SO ORDERED.**

/s/ Lisa D. Hamilton-Fieldman  
Lisa D. Hamilton-Fieldman  
Special Master

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<sup>3</sup> Pursuant to Vaccine Rule 11(a), entry of judgment is expedited by the parties' joint filing of notice renouncing the right to seek review.